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Consultation response

## **Local Authority Parking**

Department for Transport

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## 1. Overall comment

- 1.1. Overall this set of proposals is based on a presumption (no hard evidence or impact analysis is provided) that access by car to shopping streets and town centres is of such over-riding importance that the potential effects on bus services is not deemed worthy of consideration. However, in reality many people access town centres and local shopping streets by bus. Recent research for Greener Journeys showed that 33% of city centre visitors made their most recent trip by bus; bus users spend an average of £54 per city centre trip; and make up 29% of all city centre spending and 30% of shoppers rely on the bus as they have not access to a car or van. The bus services that local shops rely on can only thrive if they can be run reliably and punctually and that means that parking on bus stops, in bus lanes and in other ways that obstruct bus services needs to be tackled through effective enforcement.
- 1.2. Research commissioned by the Government funded and appointed Passenger Focus has consistently highlighted the importance of punctuality in persuading people to travel by bus as a public transport option. Making parking enforcement more difficult for local authorities will make providing reliable and cost effective bus services more difficult, and if that happens then ultimately local high streets will suffer as a result.
- 1.3. We also note that there is no equality impact statement which, given the likely detrimental effects on disabled people, is a matter of concern.
- 1.4. We also share the concerns of other consultees that it is difficult to see how the Government can introduce any of these measures without primary legislation. Proposals to ban CCTV and to change the basis upon which penalty charge notices are paid will require primary legislation. We do not see how the Government can undermine the will of Parliament, which introduced these changes in base road traffic and traffic management legislation. Both these items will open the government to potential Judicial Review with all the costs and uncertainty this creates.

## 2. Response to questions

### **Q1. Do you consider local authority parking enforcement is being applied fairly and reasonably in your area?**

- 2.1. Yes. We believe that, overall, there is a fair and proportionate parking enforcement regime. Indeed the statistics show that penalty fare notices have declined by 20% over the last four years. This is not to say that every enforcement action is perfect and every local authority accepts that there is always room for improvement however parking enforcement is key to supporting town centre economies by:
  - a) Keeping traffic moving and reducing congestion caused by illegal parking;
  - b) Enabling essential access and availability of parking in town and city centres for the many different categories of road user who need to visit them – this includes pedestrians, buses, cyclists, taxis, delivery vehicles and people with disabilities; and
  - c) Helping to maintain high levels of road safety by tackling dangerous parking which puts other road users at risk.
- 2.2. It is also important for providing access for the emergency services.

- 2.3. One of the unsubstantiated assertions behind the consultation is that parking enforcement is based on an objective of raising revenue. This is not the case and would be unlawful. Indeed the amount councils make from parking income is dwarfed by the amount they spend on transport, including roads maintenance. Where councils make a genuine surplus on parking this money is spent on transport. Although councils do not set charges in order to make a profit, if central government makes enforcement more expensive – for example by banning CCTV enforcement – and surpluses shrink, there will be less money to spend on filling potholes. So while motorists who park unlawfully will benefit, all motorists will lose out.
- 2.4. Finally, we feel that the prescriptive approach to parking enforcement proposed in this consultation runs contrary to the spirit of localism. Every town and city centre is different and decisions about parking policy and enforcement practices are best taken by local, democratically-elected councils, supported by suitable channels for appeal and redress – which already exist.

**Q2.The Government intends to abolish the use of CCTV cameras for parking enforcement. Do you have any views or comments on this proposal?**

- 2.5. Yes. We strongly disagree with this proposal. The proposals could have significant detrimental implications for the reliability and viability of bus services as CCTV is used to effectively enforce bus lanes, parking on bus stops, parking offences that disrupt bus services and some other moving traffic offences that disrupt bus services.
- 2.6. For example In Nottingham seven years of camera enforcement on bus lanes has seen improved bus punctuality and journey times, but no increase in general traffic congestion levels or journey times. At the same time there has been a 40% reduction in observed offences on bus lanes
- 2.7. The inability to enforce parking bans at bus stops will have a particularly significant impact on wheelchair users and other bus passengers of restricted mobility (including the visually impaired) as one reason parking is banned at bus stops is to allow busses to reach the kerb to deploy wheelchair ramps and to reduce the step up onto the bus for those who have difficulty walking. For example from Sept 2012 to Nov 2013 in Newcastle a mobile CCTV vehicle was used to issue 3,617 penalty notices for parking on bus stops or stands.
- 2.8. There is no evidence that the Government has given any thought to the implications of this measure in respect of the public sector equality duty. Forcing busses to stop away from the kerb because vehicles are parked in bus stops also poses a risk for passengers who have to enter the road to board, again these risks are likely to disproportionately affect the disabled At the same time vehicles - including cyclists – will be encouraged to perform a more dangerous manoeuvre by overtaking a bus that presents more of an obstacle because it cannot draw in to the kerb. Although we focus on the implications for bus services in this response there are other implications.
- 2.9. There could be road safety issues, including in relation to enforcement around zebra crossings. For example in Newcastle between Sept 2012 and Nov 2013 a mobile CCTV vehicle was used to issue 343 penalty notices for parking on pedestrian crossings.
- 2.10. Mobile CCTV is used to enforce 'school-keep clear markings'. A lack of enforcement could potentially put children's safety at risk. According to insurance industry figures, more than 1,000 children a month are injured on roads around British schools and 37% of school areas (anywhere within a 500-metre radius from a school) had at least one child road injury each

year from 2006-11. Experience shows that enforcement using foot based enforcement officers is less effective as a deterrent than CCTV cars. For example before the introduction of a CCTV car in Newcastle the Council issued less than 50 penalty notices for parking in restricted areas near schools over a three year period with the perception from the public and officers that little improvement was achieved despite significant resource being dedicated. Since the introduction of a CCTV camera car a total of 306 penalty notices have been issued over a 13 month period. Over this period the number of penalty notices issued has also steadily dropped by around 50% demonstrating improved compliance and fewer requests for enforcement. A recent survey undertaken by the London Borough of Bromley among recipients of penalty notices for stopping on 'school entrance-keep clear markings' showed that half of them would continue to do this if they thought they would not get a Penalty Notice.

- 2.11. CCTV is also used for other restrictions where regular enforcement has proved difficult. This may be because street officer enforcement is not effective in ensuring compliance (where, for example, there are repeated incidents of relatively short stops at critical locations such as major junctions) or because Civil Enforcement Officers have been subject to threatening or violent behaviour.
- 2.12. CCTV is also deployed on major roads where it is important to keep traffic flowing, and parking is not permitted.
- 2.13. Another major consideration is the significant investment local government has made in CCTV equipment and technology within the existing legal framework. Local government would have to cover these abortive costs as well as the additional cost of more on-street civil enforcement officers if use of the more cost-effective CCTV is curtailed.
- 2.14. If there are specific concerns about the use of CCTV cameras in certain locations, then these can be addressed by the newly appointed Camera Surveillance Commissioner who is producing a Code of Practice. This could provide clear guidance about where and when CCTV can be used for the management of parking. We note that the TSC report quoted in the consultation document does not call for the banning of CCTV cameras; in fact, it states that cameras can be helpful for enforcement in some areas where the use of a parking warden is not practical.
- 2.15. In summary, whilst fully supporting the government's expressed wish to support town centre economies, this proposal appears disproportionate and not in the public interest. It would inhibit effective parking enforcement across a much wider area than just town centres (including locations such as schools and at bus stops). It would undermine efforts to improve road safety, tackle congestion, encourage sustainable travel and reduce obesity – all goals supported by the UK government. Most seriously, it would put childrens' lives at risk.

### **Q3. Do you think the traffic adjudicators should have wider powers to allow appeals?**

- 2.16. No – they already have sufficiently wide powers.
- 2.17. Parking and Traffic Adjudicators have wide ranging powers already. They can and do refer cases back to the Chief Executive of the issuing authority where compelling mitigating circumstances might apply with directions to reconsider the case, and adjudicators already have discretion to award costs. The grounds of appeal set out in the Traffic Management Act are sufficient.

- 2.18. Statutory guidance is something which local authorities must have due regard to and is not compulsory. It promotes consistency and yet supports localism. It would be inappropriate for adjudicators to be able to punish local authorities who, for good reason, depart from statutory guidance.
- 2.19. Statutory guidance is just that: “guidance”. If Parliament wanted to make it compulsory then it would have enshrined it in primary legislation. It would be inappropriate to use secondary legislation as if it were primary and thus usurp the will of Parliament. We believe that to do so would open the government to a Judicial Review.

**Q4. Do you agree that guidance should be updated to make clear in what circumstances adjudicators may award costs? If so, what should those circumstances be?**

- 2.20. The current situation allows adjudicators to consider costs against the appellant or the authority if either party has acted ‘frivolously’, ‘vexatiously’ or ‘wholly unreasonably’
- 2.21. Motorists who feel they have been the victims of unfair treatment already have the option to appeal to the Local Government Ombudsman Service which has the power to hold local authorities to account for maladministration and systemic failures.

**Q5. Do you think motorists who lose an appeal at a parking tribunal should be offered a 25% discount for prompt payment?**

- 2.22. No. This proposal will make the system more complex and increase costs for local authorities, who already face severe financial pressures. We see no reason why a motorist whose appeal has been found to be invalid should then be ‘rewarded’ with a discount. The danger of this proposal is that it will deter motorists from paying the initial discount payment and instead encourage weak or groundless appeals. This will impose greater administrative burdens and costs on the appeals process.
- 2.23. No other part of the judicial process in England and Wales encourages someone to pursue a case, and be rewarded for losing. It is, therefore, disproportionate, likely to lead to an abuse of the Parking and Traffic Appeals system and an unnecessary waste of public resources.

**Q6. Do you think local residents and firms should be able to require councils to review yellow lines, parking provision, charges etc in their area? If so, what should the reviews cover and what should be the threshold for triggering a review?**

- 2.24. It is important to understand that there are no parking controls in place that have not been sanctioned and approved by locally elected Council members. Local authorities already consult residents and businesses through a range of means and there are ample opportunities for parking strategies to be discussed and questioned. Where particular concerns are raised, they seek to act on them.
- 2.25. We are fully aware of the challenges facing our town and city centres and the need to provide convenient and attractive facilities for users of all modes of transport, including motorists. Many towns and cities already offer free parking at selected times of day – for example, in Newcastle parking is free in Council-owned car parks after 5pm.
- 2.26. We do not see the need for a new bureaucratic system to be introduced when there are already effective mechanisms for parking provision and charges to be reviewed and debated – including the democratic process of local elections.

**Q7. Do you think that authorities should be required by regulation to allow a grace period at the end of paid for parking?****Q8. Do you think that a grace period should be offered more widely****Q9. If allowed, how long do you think the grace period should be?**

- 2.27. In answering questions 7, 8 and 9, it is important to distinguish between permitted parking (where parking is allowed, usually between specific time periods and sometimes for a fee) and prohibited parking, where parking is not allowed at all – such as on all double yellow lines.
- 2.28. In the first case (permitted parking), most local authorities already offer grace periods in their parking policies. If a set grace period time is documented in regulation, this takes away the ability to apply grace periods that are better suited to the local circumstances. If the government is truly concerned with revitalising the high street, it will leave local authorities to make this decision locally in the best interest of their communities.
- 2.29. If the ability to offer appropriate local grace periods is taken away, not only will this ensure that the grace periods are potentially unsuitable and therefore less effective, it will undermine the gesture of goodwill that a grace period offers. Stipulated grace periods become the accepted norm. A regulated grace period of, for example, five minutes, will become known and accepted by motorists – a paid-for one hour parking ticket will then become one hour and five minutes. This will encourage motorists to ‘chance their luck’ on returning to their vehicle even later, which may put them at a higher risk of overstaying their allotted time and subsequently receiving a penalty charge. Additionally, there will be claims that “I was only six minutes - that's unfair”.
- 2.30. The consultation question also does not recognise the opportunities available with new technologies such as mobile phone parking apps, enabling motorists to be informed of expiry paid for times and the abilities for topping up remotely.
- 2.31. In the second case (prohibited parking), we consider this proposal unworkable. If yellow lines are in place, they are there for a good reason, either for traffic management or road safety purposes. Introducing a 5-minute grace period will encourage people to disregard prohibited parking controls in general. A succession of “5-minute grace parkers”, especially at peak hours, will occupy kerb space, obstructing essential access for disabled people, delivery drivers and buses – causing inconvenience and disruption, and economic damage to high streets.

**Q10. Do you think the Government should be considering any further measures to tackle genuinely anti-social parking or driving? If so, what?**

- a) It is unfair that some people can avoid enforcement action by not complying with traffic and parking laws through failure to register themselves and/or their vehicles properly in accordance with the law.

We would like to see better enforcement of the Vehicle Registration Acts. The powers currently available to local authorities in London to address the serious problem of persistent evaders should be introduced nationwide.

- b) Parking on footways is a significant area of concern. People with disabilities or similar mobility challenges and those with prams or baby buggies sometimes experience real

difficulty in negotiating safe routes due to inappropriate and selfish obstruction of footways. Additionally, the costs for maintaining footways damaged by parked vehicles are significant in some cases.

- c) The Government should implement Part Six of the 2004 Traffic Management Act to allow local government to enforce some moving traffic offences such as the enforcement of cycle lanes and bans on illegal turns and yellow box junction offences.
- d) A simplification of the traffic order making process, and the associated costs and required advertisement.
- e) Further consideration of enabling authorities to trace foreign registered vehicles in the EU through their equivalent 'DVLA'.
- f) The closing of loopholes allowing motorists to 'play' the system and make multiple witness statements and statutory declarations.
- g) Greater consideration on the effects for authority enforcement and the problem of cloned vehicles, with the removal of the requirement to display a tax disc.